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UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

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Memorandum

2001 OCT 24 A 8:38

Date: October 19, 2001

TO : The Commission

THROUGH: Todd Stevenson, Acting Secretary *T. Stevenson*
Caroline Croft, Executive Director *CC*
Michael Solender, General Counsel *MS*

FROM : Alan H. Schoem *AHS*
Assistant Executive Director, Office of Compliance

SUBJECT : Product Safety Owner Cards

Attached for the Commission's information is a copy of a Progress report from the Recall Notification Effectiveness Committee headed by Kathleen McCarthy of Williams Sonoma. The report identifies current issues the Committee is exploring. There is no specific time frame for the Committee to complete its work. While we do not believe the work of this Committee is directly related to the issue of whether to publish an ANPR concerning product owner cards, it does pertain to recall effectiveness generally.

NOTE: This document has not been
reviewed or accepted by the Commission.
Initial *MS* Date *10/22/01*

CPSC Hotline: 1-800-638-CPSC(2772) ★ CPSC's Web Site: <http://www.cpsc.gov>

CPSA 6 (b)(1) Cleared

10/22/01
No Mfrs/Prvt. Lbls or
Products Identified

Excepted by _____
Firms Notified, _____
Comments Processed, _____

RECALL NOTIFICATION EFFECTIVENESS COMMITTEE

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PROGRESS REPORT OF RECALL NOTIFICATION EFFECTIVENESS COMMITTEE

2001 OCT 9 AM 8: 52

PARTICIPANTS TO DATE

Retailers/Manufacturers/Trade Organizations:

Target; Pier One; Sears; AAFES; DMA; Wal Mart; IKEA; Williams Sonoma; TOYS R US, AHAM; IMRA; Disney

Credit Bureaus:

Associated Credit Bureaus, Experian, Equifax, Trans-Union

Entrepreneurs

Brandstramp & Cambridge Innovations

To date, no special interest groups or credit card companies have participated in the calls

ISSUES DISCUSSED

I) "GOAL" OF COMMITTEE

- To evaluate how retailers and manufacturers can utilize electronic consumer databases to communicate recall information to consumers.

II) CENTRAL DATABASES

****RECOMMENDATION --** . The committee has unanimously determined that a central database is neither advisable nor feasible due to privacy and security issues

III) USING CREDIT BUREAU DATABASES

1. Legal Barriers

- We need to first understand the legal barriers in terms of statutory, regulatory and case law considerations.
 - There is case law stating that transmitting a credit card number is a transaction.
 - A retailer forwarding a credit card number to a CB would also be a transaction.
 - Pursuant to 16 CFR 313, all information received by credit reporting agencies can only be used in consumer reports.
 - However information could be disclosed to CPSC.
 - FCRA does not provide an exception for recalls.
 - GLB may provide for exception but may require special consumer notification that the information may be used in recalls
 - It is important not to confuse the FCRA and GLB in discussions on privacy.
- a) **Credit Bureaus** believe that they can release identifying information to governmental agency under FCRA 608. The problem is, the CPSC may not want to handle the information. This provision does not allow them to release it to retailers or a third party. Governmental agency may not want to risk liability for then releasing to third party.
- b) **Retailers** cannot exchange the data directly with the credit bureaus without the information becoming a "credit report". Retailers are currently researching the implications of their actions and their potential liabilities under GLB

2. Technical Challenges

- Bulk of discussion premised on assumption that legal obstacles could be overcome
- Cost – uncertain – will depend on fulfillment options
- Turn time

- "Fulfillment" – credit bureaus would provide names/addresses to third party for "fulfillment" (ie letters, phone calls, etc)
 - Recall specifics will impact access to information – when purchased, how information is tracked in system
 - A given solution will not work in every case
 - Will likely not be capable of identifying specific manufacturing dates (if only certain production runs recalled)
- a) **Retailers** examining information regarding:
- does current system allow a list of credit card numbers to be pulled up by inputting sku
 - how far back in time can information be called up (how long is information kept)
 - feasibility of adding software to current systems to allow indefinite retention of customer info by sku.

3. Criteria for using Database

Retailers/manufacturers collectively or each retailer would have to craft the criteria for when the system would be employed

- degree of risk
- price of item
- when item sold

IV) NEXT STEPS

- The Credit Bureaus are in the process of completing a report detailing their findings on the legal issues to be published in the near future.
- The Retailer are similarly researching the legal issues and will be preparing a report of their findings.